

REMARKS

By this amendment, claims 1-4, 6-9, 11-15, 17-24, 28-32 and 39 are pending, in which claims 5, 10, 11, 16, 25-27, 29, and 33-38 are canceled without prejudice or disclaimer, and claims 1, 6, 12, 23, and 39 are currently amended. No new matter is introduced.

The Final Office Action mailed February 12, 2009 rejected claims 1-4, 6-9, 11-15, 17-24, 28-32, and 39 under 35 U.S.C. § 102(b) as being anticipated by *Ichihashi et al.* (EP 757 485 A2), rejected claims 11, 19, and 29 under 35 U.S.C. § 103(a) as being unpatentable over *Ichihashi et al.*, and rejected claims 8, 9, and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over *Ichihashi et al.* in view of *Bendinelli et al.* (US 6,061,719).

With respect to the rejection under 35 U.S.C. § 102(b), to reduce issues for potential appeal, Applicant has amended claim 1 to incorporate features of claim 11 and 29, and has amended claims 12, 23, and 39 to incorporate the features of claim 11. Therefore, the anticipation rejection have been rendered moot.

As for the rejections of claims 11 and 29 under 35 U.S.C. § 103(a), the Examiner relies on official notice for the missing features of “teletext service in conjunction with a television program service according to digital video broadcasting (DVB) standard.” Although the Examiner may in some instance take official notice of certain facts to fill in the gaps, such facts should not comprise the principle evidence upon which a rejection is based. See *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420-421 (CCPA 1970). MPEP § 2144.03 admonishes that “[i]t would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. The Examiner states in the Office Action that DVB standard was created by an industry-led consortium of many members in many

countries. However, this fact itself would not lead to a conclusion that **teletext service in conjunction with a television program service according to** digital video broadcasting (DVB) standard is well known. Pursuant to the MPEP § 2144.03, Applicant respectfully traverses the Official Notice and request the Examiner to produce references showing the claim features or withdraw the rejection as factually inadequate.

Accordingly, Applicant submits that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the limitations recited in independent claims 1, 12, 23, and 39. Therefore, the obviousness rejections are unsustainable.

The dependent claims are considered allowable for the reason advanced for independent claim from which they respectively depend.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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December 14, 2009
Date

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